

## PUBLIC DEFENDER

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$129,477,200	\$124,068,300	\$128,436,200	\$128,436,200	\$125,168,300	- \$4,308,900	- 3.3 %
PR	<u>2,552,200</u>	<u>2,573,800</u>	<u>2,573,800</u>	<u>2,573,800</u>	<u>2,573,800</u>	<u>21,600</u>	0.8
TOTAL	\$132,029,400	\$126,642,100	\$131,010,000	\$131,010,000	\$127,742,100	- \$4,287,300	- 3.2%

FTE Position Summary						
Fund	2000-01 Base	2002-03 Governor	2002-03 Jt. Finance	2002-03 Legislature	2002-03 Act 16	Act 16 Change Over 2000-01 Base
GPR	523.55	523.55	582.85	582.85	523.55	0.00
PR	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>0.00</u>
TOTAL	527.55	527.55	586.85	586.85	527.55	0.00

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide \$516,300 GPR in 2001-02 and \$548,600 GPR in 2002-03 and \$10,800 PR annually for the following: (a) turnover reduction (-\$767,800 GPR annually); (b) full funding of continuing salaries and fringe benefits (\$852,200 GPR and \$7,900 PR annually); (c) reclassifications (\$27,000 GPR in 2001-02 and \$41,000 GPR in 2002-03); (d) overtime (\$219,900 GPR and \$2,900 PR annually); (e) fifth week of vacation as cash (\$172,000 GPR in 2001-02 and \$190,300 GPR in 2002-03); and (f) full funding of lease costs and directed moves (\$13,000 GPR annually).

GPR	\$1,064,900
PR	<u>21,600</u>
Total	\$1,086,500

## 2. BASE BUDGET REDUCTIONS [LFB Papers 245 and 246]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Veto (Chg. to Leg)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	-\$6,473,800	0.00	\$4,367,900	59.30	-\$3,267,900	- 59.30	-\$5,373,800	0.00
GPR-Lapse	\$0		\$1,100,000		\$0		\$1,100,000	

**Governor:** Reduce the State Public Defender's (SPD's) largest GPR state operations appropriation, trial representation, by \$3,236,900 annually. This amount represents 5% of the agency's total GPR adjusted base for state operations. No later than 90 days after the effective date of the bill, permit the SPD to submit an alternative plan to the Secretary of Administration for allocating the required reduction among its sum certain GPR state operations appropriations. Provide that if the DOA Secretary approves the alternative reduction plan, the plan must be submitted to the Joint Committee on Finance for its approval under a 14-day passive review procedure. Specify that if the Secretary of Administration does not approve the agency's alternative reduction plan, the agency must make the reduction to the appropriation as originally indicated.

**Joint Finance:** Delete provision. Instead, make the following changes:

a. Provide \$1,992,500 in 2001-02, \$2,342,500 in 2002-03 and 43.3 positions annually (30.0 attorneys, 7.5 legal secretaries, 4.3 investigators and 1.5 client services specialists). Delete \$1,748,600 in 2001-02 and \$3,497,100 in 2002-03 from the private bar and investigator reimbursement appropriation.

b. Provide \$734,400 in 2001-02, \$863,300 in 2002-03 and 16.0 positions annually (10.0 assistant public defenders, 1.0 attorney supervisor, 3.0 legal secretaries, 1.5 investigators and 0.5 client services specialist) to create a conflicts office in the SPD. Delete \$311,800 in 2001-02 and \$1,247,000 in 2002-03 from the private bar and investigator reimbursement appropriation. Under current rules of ethics governing attorneys, public defenders generally may not represent multiple defendants who have conflicting interests. Under the provision, a portion of conflicts cases would be assigned to the conflicts office when a public defender has a conflict, instead of being assigned to a private attorney.

c. Reduce the private bar and investigator reimbursement appropriation by \$40,600 in 2001-02 and \$357,500 in 2002-03 and raise the felony thresholds for the following crimes to \$2,500: (1) criminal damage to property; (2) graffiti; (3) theft; (4) fraud on hotel or restaurant keeper or taxicab operator; (5) receiving stolen property; (6) fraudulent insurance and employee benefit claims; (7) financial transaction card crimes; (8) retail theft; (9) theft of library materials; (10) unlawful receipt of loan payments; and (11) issuing a worthless check. Provide that these changes first apply to offenses committed on the effective date of the bill.

d. Delete \$418,000 annually from supplies, services and administration.

e. Require the Secretary of Administration to lapse \$550,000 annually to the general fund, in total, from the SPD's GPR appropriations. Require the Public Defender Board to determine how the total lapse amount for each year is apportioned between SPD GPR appropriations. Direct the Board to submit to the Joint Committee on Finance, at the end of each quarter in fiscal years 2001-02 and 2002-03, a report of the amount of savings recognized by the Board during the previous 3 months. Direct the Board to request additional funding through the s. 13.10 process if a shortfall occurs in any appropriation.

**Conference Committee/Legislature:** Include Joint Finance provision and make a technical correction to delete the Public Defender Board from the nonstatutory provision concerning state agency appropriations reductions.

**Veto by Governor [D-24]:** Delete: (a) \$2,894,800 in 2001-02 and \$373,100 in 2002-03 and 59.3 positions annually from the trial representation appropriation; (b) the requirement that the Public Defender Board submit to the Joint Committee on Finance, at the end of each quarter in fiscal years 2001-02 and 2002-03, a report of the amount of savings recognized by the Board during the previous three months; and (c) the requirement that the Board request additional funding through the s. 13.10 process if a shortfall occurs in any appropriation. Including the required lapses, the partial veto restores the Governor's 5% reduction to the agency's total GPR adjusted base for state operations.

[Act 16 Sections: 3938u, 3938v, 3938w, 3939b thru 3939s, 3966r, 4018f, 4018h, 9239(1q) and 9359(11r)]

[Act 16 Vetoed Sections: 395 (as it relates to s. 20.550(1)(c)) and 9139(2q)]

### **3. MISDEMEANOR OFFENDER DIVERSION PROGRAM [LFB Paper 192]**

**Governor:** Authorize the Secretary of Administration to allocate up to \$2,000,000 in federal Byrne anti-drug enforcement program grant money and matching penalty assessment funds in 2002-03 for distribution to the SPD, the Director of State Courts and the Wisconsin District Attorneys Association (WDAA) to fund activities to divert misdemeanor offenders from imprisonment. Require the SPD, in consultation with the Director of State Courts and the WDAA, to: (a) develop alternative charging and sentencing options for misdemeanor crimes in order to divert misdemeanor offenders from imprisonment; and (b) submit a proposal describing the recommended options to DOA by July 1, 2002. The proposal would be required to address, among other topics, alternative charging and sentencing options for nonviolent crimes against property. No expenditure of Byrne grant money or matching penalty assessment funds for a diversion program could be made without the approval of the proposal by DOA. The Byrne program is a federal program established under the Anti-Drug Abuse Act of 1988.

**Joint Finance:** Authorize the Secretary of Administration to allocate up to \$1,864,700 in federal Byrne anti-drug enforcement program grant money and matching penalty assessment funds in 2002-03 to fund activities to divert misdemeanor offenders from imprisonment.

Require that, prior to implementation of the program, the program proposal be approved by the Joint Committee on Finance under a 14-day passive review process.

**Senate:** Modify the provision concerning the development of the proposal for the misdemeanor offender diversion program to require that: (a) in the development of the proposal, the SPD consult with private community-based organizations that have experience identifying and serving the rehabilitation needs of offenders and reintegrating offenders into the community, in addition to consulting with the Director of State Courts and the WDAA; and (b) the proposal include alternative charging and sentencing options not only for nonviolent misdemeanor crimes against property, but also for felony crimes that are punishable by a maximum bifurcated sentence of five years imprisonment and for nonviolent crimes related to controlled substances. Further, provide that the Secretary of Administration may allocate up to \$1,484,700 in federal Byrne and penalty assessment match monies in 2002-03 for the program.

**Assembly:** Authorize the Secretary of Administration to allocate up to \$1,364,800 in federal Byrne and penalty assessment match monies in 2002-03 for the program.

**Conference Committee/Legislature:** Modify the Joint Finance provision to provide that the Secretary of Administration may allocate up to \$1,218,100 in federal Byrne and penalty assessment match monies in 2002-03 for the program.

[Act 16 Sections: 9101(13) and 9139(1)]

#### **4. EARLY REPRESENTATION [LFB Paper 720]**

**Governor/Legislature:** Authorize the SPD to provide representation to: (a) adults who are neither formally charged with a crime nor in custody; and (b) juveniles who are not in custody and not yet subject to a proceeding under the Children's Code (Chapter 48) or the Juvenile Justice Code (Chapter 938) for which counsel is required or for which counsel may be appointed. Under current law, the SPD is prohibited from providing legal services or assigning counsel for such persons.

[Act 16 Sections: 4030 and 4031]

#### **5. TRANSCRIPTS, DISCOVERY AND INTERPRETERS APPROPRIATION**

**Governor/Legislature:** Provide that court interpreter and discovery costs would no longer be paid for out of the program administration appropriation, but rather out of the transcript and record payments appropriation that would become the transcripts, discovery and interpreters appropriation. Transfer \$160,000 GPR annually (\$10,000 associated with court interpreter fees and \$150,000 associated with discovery costs) from the program administration appropriation to the transcripts, discovery and interpreters appropriation.

[Act 16 Sections: 915, 916 and 4003]